of municipal creditors is not involved. There was due notice given under the new statute by publication as was therein provided, hence the taking of property without due process of law is not involved in this case. The question narrows down to the right which a municipal corporation has in a particular assessment district, under existing law when it contracts for public improvements. In the absence of any statute which defines the municipal right or a statute which bars the effects of repealing laws on existing contracts (*Reed* v. *Bates,* 115 Ky. 437), a municipal corporation has no vested right in any particular revenue or any defined assessment district; but these may be changed, increased or diminished at the discretion of the legislature so long as vested rights of other contracting parties are not impaired: *Blanding* v. *Burr,* 13 Col. 343; *Weeks* v. *Gilmanton,* 60 N. H. 500; *City of Richmond* v. *Richmond & Danville R. R. Co.,* 21 Grat. (Va.) 604; *Hines* v. *City of Leavenworth,* 3 Kan. 186; *Stone* v. *Street Com'rs of Boston,* 192 Mass. 297; *Boston* v. *Water Power Co.,* 194 Mass. 571; *Nelson* v. *Dunn,* 56 Ind. App. 645, 104 N. E. 45; DILLON, MUNICIPAL CORPORATIONS, (5 Ed.) § § 233, 1352, 1377; 8 CYC. 944. Unless the finding of the majority is correct, in regard to the intention of the legislature, the new statute in force when the assessment was levied should be controlling under the circumstances of the principal case.

MUNICIPAL CORPORATIONS—REMOVAL OF OFFICER FOR OFFICIAL MISCONDUCT DURING A PRIOR TERM.—In a proceeding under the OUSTER LAW, misconduct in public office during a prior term was charged against the Mayor of Nashville. These charges included among other things, wanton waste of public money and encroachment on trust funds. The OUSTER LAW (PUB. ACTS 1915, Ch. 11) makes provision for the removal of officers who, "shall knowingly or wilfully misconduct [themselves] in office or who shall knowingly or wilfully neglect to perform any duty enjoined upon such officer by any of the laws of the State of Tennessee." It was *held,* that misconduct in office during a previous term could be proved under the OUSTER LAW. *State ex rel. Timothy* v. *Howse,* (Tenn. 1916) 183 S. W. 510.

The cases in accord with this view are reviewed in the principal case. The weight of authority is against this decision. The following cases hold that misconduct in a prior term of office cannot be shown in ouster proceedings: *People ex rel. Bancroft* v. *Weygant,* 14 Hun. 546; (misconduct in a present as well as in a prior term), *People ex rel. Burby* v. *Common Council,* 85 Hun. 601; *Carlisle* v. *Burke,* 144 N. Y. Supp. 163; (dictum) *State* v. *Jersey City,* 25 N. J. L. 536; *Campbell* v. *Police Comr's,* 71 N. J. L. 98; *Speed* v. *Common Council of the City of Detroit,* 98 Mich. 360; *Commonwealth* v. *Shaver,* 3 Watts & S. 338; *State ex rel. Att. Gen.* v. *Hasty,* 184 Ala. 121; *In re Advisory Opinion to Governor,* 31 Fla. 1; *In re Advisory Opinion to Governor,* 64 Fla. 168; *Thurston* v. *Clark,* 107 Cal. 285; *State ex rel. Schulz* v. *Patton,* 131 Mo. App. 628; DILLON, MUNICIPAL CORPORATIONS, (5 Ed.) § § 471, 475, 477. In several impeachment trials misconduct during a prior term of office was proved: trial of Judge BARNARD, trial of Judge HUBBEL of Wisconsin, and trial of Governor BUTLER of Nebraska. This

subject is reviewed in *State* v. *Hill,* 37 Neb. 80; see also, 2 AMER. POL. SCI. REV. 378. This doctrine has been questioned and it is expressly declared to be against the weight of authority in *State ex rel. Schulz* v. *Patton,* cited above. It is submitted that the rule established in impeachment trials should not be applied to so summary a proceeding as is provided for under the ouster laws. For prior acts impeachment may be had, but no such purpose is expressed by the legislature in modern ouster laws, i. e. to substitute ouster in place of impeachment. Removal of an officer for cause is an incidental power in a municipal corporation, *Rex* v. *Richardson,* 1 Burr. 517. Modern ouster laws provide the necessary machinery for a speedy and summary removal. With this power well defined and so readily adapted to speedy operation, the doctrine that re-election operates to condone past offenses seems to be the better one in that it leaves the choice of officers with the people and the chosen in public service until a just and immediate cause for removal is shown in a present term. The opposite view makes the court the guardian over political qualifications of officers, a matter which the voter is generally competent to decide for himself. Furthermore, removal under the ouster law does not disqualify the offender from re-election or re-appointment, (*State ex rel. Thompson* v. *Crump,* (Tenn. 1916), 183 S. W. 505; *In re Advisory Opinion to Governor,* 31 Fla. 1; *State v. Jersey City,* cited above); hence an ouster for a prior act of misconduct seems more to rob the people of their choice than to secure proper administration of a public office, especially when no misconduct can be charged in a present term.

QUIETING TITLE—CANCELLATION OF VOID INSTRUMENT.—A court in a former suit decreed that the land in question in the present suit belonged to a former grantor of this complainant. Six months later, by a void decree, this same court purported to vest title to this same land in a former grantor of defendant. Each party, with his grantors, has claimed title through recorded deeds for more than sixteen years, but the land, being waste land, has not been occupied by either within the statutory period of limitations relating to adverse possession. A bill was filed in the present suit to remove this void decree as a cloud on complainant's title. It was *held,* upon the facts given in the bill, that the void decree should be cancelled as a cloud on the title. *Stearns Coal and Lumber Co.* v. *Patton* (Tenn. 1916), 184 S. W. 855.

The answer presented the issue whether an instrument which is void on its face or which must necessarily appear void when offered by one claiming under it should be cancelled as a cloud on a title. The general rule (by the great weight of authority) is that a court of equity will not exercise its jurisdiction to remove a cloud in case of such an instrument, for the assumed reason that there is no cloud. *Taylor* v. *Fisk,* 94 Fed. 242; *Parker* v. *Bantwell & Son,* 119 Ala. 297; *Hannibal & St. J. Ry. Co.* v. *Nartoni,* 154 Mo. 142; POMEROY, EQ. JUR. § 1399. The rule adopted by the court in the principal case is that equity has the power to cancel a void instrument whether its character appears from its face or otherwise. For other cases, see *Almony* v. *Hicks,* 3 Head. 40; *Day Company* v. *State,* 68 Tex. 526; *Stevenson* v. *Ryerson,* 6 N. J. Eq. 477. This latter rule is the more reasonable rule, if